

NB:JRS
F. #2023R00567

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----- X

UNITED STATES OF AMERICA

- against -

NICHOLAS BARTON,
OMAR CLARKE and
RICHARD REID,

Defendants.
----- X

THE GRAND JURY CHARGES:

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
* FEBRUARY 1, 2024 *
BROOKLYN OFFICE

I N D I C T M E N T

Cr. No. 24-CR-49
(T. 18, U.S.C., §§ 982(a)(2), 982(b)(1),
1343, 1344, 1349, 2 and 3551 et seq.; T.
21, U.S.C., § 853(p))

Judge Nina R. Morrison
Magistrate Judge Robert M. Levy

I N T R O D U C T I O N

At all times relevant to this Indictment, unless otherwise indicated:

I. The Criminal Justice Act

1. The Sixth Amendment of the United States Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence.” U.S. Const. amend. VI.

2. In 1964, Congress expanded this constitutional guarantee by passing the Criminal Justice Act (“CJA”). The CJA established a robust system for federal courts to appoint and compensate legal representatives for accused persons who are financially unable to retain counsel in federal criminal proceedings. The CJA provides for the payment of hourly compensation rates as well as the reimbursement of certain out-of-pocket expenses for court-appointed criminal defense lawyers.

3. In most circumstances, lawyers appointed by the court pursuant to the CJA keep track of their time and expenditures related to their cases and then submit requests for reimbursement to the court. Upon approval of the reimbursement request by the court, the United States Department of the Treasury (“Department of the Treasury”) then issues a check to the lawyer, which is sent by mail via the United States Postal Service to the lawyer’s address of record.

II. The Defendants’ Fraudulent Scheme

4. In or about and between November 2020 and October 2022, both dates being approximate and inclusive, the defendants NICHOLAS BARTON, OMAR CLARKE and RICHARD REID, together with others, devised and executed a scheme and artifice to defraud the intended recipients of checks. Without the permission of the intended recipients of the checks, the defendants cashed those checks into accounts over which the defendants had access and control. The defendants then used the proceeds of the checks for their personal benefit.

5. Certain of the checks targeted in the defendants’ scheme were issued by the Department of the Treasury, including a check issued to a lawyer appointed to represent criminal defendants in federal court pursuant to the CJA.

A. CJA Lawyer Victim-1

6. The defendants NICHOLAS BARTON, OMAR CLARKE and RICHARD REID, together with others, defrauded CJA Lawyer Victim-1, an individual whose identity is known to the Grand Jury. CJA Lawyer Victim-1 is a member of the CJA panel in the Eastern and Southern Districts of New York and serves as court-appointed counsel for indigent defendants who cannot afford an attorney to defend them in federal criminal prosecutions. CJA Lawyer Victim-1 maintains a law office in Brooklyn, New York.

7. On or about June 28, 2021, the Department of the Treasury issued a check to CJA Lawyer Victim-1 in the amount of \$14,856.60. This check was compensation for CJA Lawyer Victim-1's work on behalf of a criminal defendant whom the court had appointed CJA Lawyer Victim-1 to represent pursuant to the CJA. This check stated, "Pay to the order of [CJA Lawyer Victim-1]," under which was listed "Law Offices of [CJA Lawyer Victim-1] PC" and the mailing address of CJA Lawyer Victim-1's law office in Brooklyn, New York.

8. On or about June 23, 2021, the defendant RICHARD REID opened an account at Bank-1, a financial institution the identity of which is known to the grand jury. On or about July 14, 2021, the \$14,856.60 check issued to CJA Lawyer Victim-1 by the Department of the Treasury was deposited into the account registered to REID at Bank-1. The following language was written by hand on the reverse of the check: "Payable to Richard Reid for deposit only." CJA Lawyer Victim-1 did not give REID permission to cash this check.

B The Proceeds of the Check Issued to CJA Lawyer Victim-1

9. After the check issued by the Department of the Treasury to CJA Lawyer Victim-1 was deposited into the account of the defendant RICHARD REID at Bank-1, the defendants NICHOLAS BARTON, OMAR CLARKE and RICHARD REID, together with others, used the proceeds of the check to enrich themselves, including by discharging personal debts and making purchases.

10. For example, on or about July 16, 2021, the defendant RICHARD REID's account at Bank-1 purchased airline tickets for the defendant NICHOLAS BARTON and the defendant OMAR CLARKE. On or about July 23, 2021, CLARKE and BARTON used those airline tickets to fly from New York to Atlanta.

11. In or about July 2021, various additional cash transfers were made from the defendant RICHARD REID's account at Bank-1 to the defendant NICHOLAS BARTON and the defendant OMAR CLARKE via mobile cash transfer applications. These cash transfers consisted of certain of the proceeds from the depositing of CJA Lawyer Victim-1's check.

12. In addition, in or about July 2021, after CJA Lawyer Victim-1's check was deposited in the defendant RICHARD REID's account at Bank-1, four cash withdrawals of certain of the proceeds were made from REID's account using automated teller machines located in Brooklyn, New York.

COUNT ONE

(Conspiracy to Commit Wire Fraud and Bank Fraud)

13. The allegations contained in paragraphs 1 through 12 are realleged and incorporated as if fully set forth in this paragraph.

14. In or about and between November 2020 and October 2022, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NICHOLAS BARTON, OMAR CLARKE and RICHARD REID, together with others, did knowingly and intentionally conspire to execute a scheme and artifice, to wit:

(a) to defraud and obtain money and property from Bank-1, which was a federally-insured financial institution, by means of one or more materially false and fraudulent pretenses, representations and promises, and to transmit and cause to be transmitted by means of wire communications in interstate commerce, writings, signs, signals, pictures and sounds, for the purpose of executing the scheme to defraud, contrary to Title 18, United States Code, Section 1343; and

(b) to defraud Bank-1, a financial institution, and to obtain money, funds, credits and other property owned by and under the custody and control of Bank-1, by

means of one or more materially false and fraudulent pretenses, representations and promises, contrary to Title 18, United States Code, Section 1344.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNT TWO
(Wire Fraud)

15. The allegations contained in paragraphs 1 through 12 are realleged and incorporated as if fully set forth in this paragraph.

16. In or about July 2021, within the Eastern District of New York and elsewhere, the defendants NICHOLAS BARTON, OMAR CLARKE and RICHARD REID, together with others, did knowingly and intentionally devise a scheme and artifice to defraud and to obtain money and property from Bank-1 by means of one or more materially false and fraudulent pretenses, representations and promises, and for the purpose of executing and attempting to execute such scheme and artifice did transmit and cause to be transmitted, by means of wire communications in interstate commerce, writings, signs, signals, pictures and sounds, to wit: electronic withdrawals of the proceeds of a check issued to CJA Lawyer Victim-1 in the amount of \$14,856.60.

(Title 18, United States Code, Sections 1343, 2 and 3551 et seq.)

COUNT THREE
(Bank Fraud)

17. The allegations contained in paragraphs 1 through 12 are realleged and incorporated as if fully set forth in this paragraph.

18. In or about July 2021, within the Eastern District of New York and elsewhere, the defendants NICHOLAS BARTON, OMAR CLARKE and RICHARD REID, together with others, did knowingly and intentionally execute and attempt to execute a scheme

and artifice to defraud Bank-1, the deposits of which were insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits and other property owned by, and under the custody and control of, Bank-1 by means of materially false and fraudulent pretenses, representations and promises.

(Title 18, United States Code, Sections 1344, 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION

19. The United States hereby gives notice to the defendants that, upon their conviction of any of the offenses charged herein, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(2), which requires any person convicted of such offenses to forfeit any property constituting, or derived from, proceeds obtained directly or indirectly as a result of such offenses.

20. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided

without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), to seek

forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(2) and 982(b)(1); Title 21, United States Code, Section 853(p))

A TRUE BILL


FOREPERSON

By Carolyn Pokorny, Assistant U.S. Attorney

BREON PEACE
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

F.#: 2023R00567
FORM DBD-34
JUN. 85

No. _____

UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

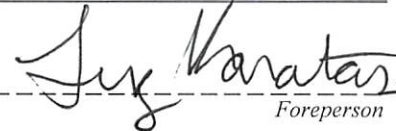
NICHOLAS BARTON, OMAR CLARKE and RICHARD REID,

Defendants.

INDICTMENT

(T. 18, U.S.C., §§ 982(a)(2), 982(b)(1), 1343, 1344, 1349, 2 and 3551 et
seq.; T. 21, U.S.C., § 853(p))

A true bill.


Foreperson

Filed in open court this _____ day,

of _____ A.D. 20 _____

Clerk

Bail, \$ _____

James R. Simmons, Assistant U.S. Attorney (718) 254-7511